

CASE NUMBER: 034252/2022

## COMPLAINT

Document prepared for:  
kevin barlow

### CASE NAME

Rosemarie Mckinnis Est Of, Kathleen Mckinniss, Carin  
Rosado, James Finn Est Of, Geraldine Finn Exr v. Ecohealth  
Alliance Inc, Peter Daszak, Janet D Cottingham Aka, Janet  
Dasz...

### CASE FILING DATE

Oct. 5th, 2022

### DOCUMENT FILED DATE

Oct. 5th, 2022

### COUNTY

Rockland county, NY

### JUDGE

Sherri L Eisenpress

### CATEGORY

Torts - Environmental (SARS-COV-2)

### STATUS

Active

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

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**IN RE SARS-CoV-2;** INDEX NO. \_\_\_\_\_

KATHLEEN MCKINNISS, PROPOSED REPRESENTATIVE  
OF THE ESTATE OF ROSEMARIE MCKINNISS,  
DECEASED; CARIN ROSADO, individually; and GERALDINE  
FINN, AS EXECUTOR OF THE ESTATE OF JAMES FINN,  
DECEASED;  
**VERIFIED COMPLAINT**  
**JURY TRIAL DEMANDED**

Plaintiffs,  
-against-

ECOHEALTH ALLIANCE, INC., PETER DASZAK,  
JANET D. COTTINGHAM a/k/a JANET DASZAK,  
RALPH BARIC, W. IAN LIPKIN, and JOHN  
AND JANE DOES 1-1000;

Defendants.  
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### **SCHEDULE OF EXHIBITS**

EXHIBIT ONE, Photos of Wuhan Institute of Virology

EXHIBIT TWO, National Institute of Health Letter dated October 21, 2014

EXHIBIT THREE, Declaration of Dr. Andrew G. Huff, PhD, M.S. dated September 12, 2022

EXHIBIT FOUR, January 13, 2020 email exchange between Defendants Peter Daszak and Dr. Ralph Baric

EXHIBIT FIVE, April 18-19, 2020 email exchange between Defendant Peter Daszak and Dr. Anthony Fauci

EXHIBIT SIX, 2005 CDC Internal Health Regulations

EXHIBIT SEVEN, Tabak Letter dated October 20, 2021

EXHIBIT EIGHT, McKinniss Certificate of Death dated April 24, 2020

EXHIBIT NINE, Photos of Decedent McKinniss

EXHIBIT TEN, Rosado Letter of Termination dated January 31, 2022

EXHIBIT ELEVEN, Finn Certificate of Death dated April 18, 2021

EXHIBIT TWELVE, Photos of Decedent Finn

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AND JANE DOES 1-1000;

Defendants.  
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Plaintiffs, by and through their undersigned attorneys, respectfully allege as follows:

**NATURE OF THE ACTION**

1. This is a toxic tort personal injury action brought by the above-identified Plaintiffs, alleging *inter alia*, negligence, strict liability, breach of implied or expressed warranty, physical and emotional pain and suffering, wrongful death, and economic loss.
2. The Covid-19 pandemic could have been avoided.
3. Despite a moratorium on dangerous *Gain of Function* research – whereby, for example, a virus is genetically altered to become more transmissible in humans – Defendants engaged in such research, which ultimately exposed the entire world to a manipulated, highly transmissible and deadly lab-made virus and global pandemic, directly and proximately causing Plaintiffs' injuries.

4. On March 13, 2020, Proclamation 9994 stated: “In December 2019, a novel (new) coronavirus known as SARS-CoV-2 (‘the virus’) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally.” 85 Fed. Reg. 15337 (March 18, 2020).<sup>1</sup>

5. In April 2020, President Trump proclaimed that SARS-CoV-2, also known as the Covid-19 virus, was released from a Level-4 Bio Safety laboratory (“BSL-4”) in Wuhan, China.

6. The aforementioned laboratory – the *Wuhan Institute of Virology* (“Wuhan Lab”) – was well-known to U.S. public health officials for its failed safety and lax security, as well as ties to the Chinese military.<sup>2</sup> Exhibit “1” Photos of the Wuhan Institute of Virology.

7. Since then, both an investigation and cover-up have continued with respect to the origins of the SARS-CoV-2 virus, impeding effective countermeasures and strategies to control the release, mutation and spread of the SARS-CoV-2 virus that has directly and proximately caused Plaintiffs’ injuries prior to filing this action in this Supreme Court.

8. Plaintiffs allege the SARS-CoV-2 virus was designed and created at the Wuhan Lab in China, made possible through the research, development, and funding support provided by Defendants ECOHEALTH ALIANCE, PETER DASZAK, JANET D.

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<sup>1</sup> See also 85 Fed.Reg. 17060, 17062 (March 26, 2020) (“COVID-19 is a communicable disease caused by a novel (new) coronavirus, SARS-CoV-2, that was first identified as the cause of an outbreak of respiratory illness that began in Wuhan, Hubei Province, People’s Republic of China (China).” 85 Fed.Reg. 17335 (March 27, 2020) (“involves a novel (new) coronavirus (nCoV) first detected in Wuhan City, Hubei Province, China in 2019 (2019–nCov). The virus is now named SARS-CoV-2, which causes the illness COVID-19.”).

<sup>2</sup> Josh Rogin, Opinion: State Department cables warned of safety issues at Wuhan lab studying bat coronaviruses. Washington Post April 14 2020.  
<https://www.washingtonpost.com/opinions/2020/04/14/state-department-cables-warned-safety-issueswuhan-lab-studying-bat-coronaviruses/> accessed 9.10.2022

COTTINGHAM also known as JANET DASZAK, RALPH BARIC, W. IAN LIPKIN, and other potential Defendants to be identified in discovery, acting individually and in concert.

9. Defendants named herein and those to be identified through discovery are liable to Plaintiffs under strict liability tort law, which is applicable to the release of any ultra-hazardous substance into the environment, including organic substances, i.e., a genetically manipulated, lab-made virus.

10. Each Plaintiff named herein was exposed to SARS-CoV-2, the abnormally dangerous genetically manipulated coronavirus that was created, financed, designed, and released into the environment by the Defendants through their intentional and/or reckless acts, that have directly and proximately caused Plaintiffs' and Decedents' injuries, and/or death as set forth in this Verified Complaint.

11. Upon information and belief, Defendants concealed from Congress their knowledge of the origins of SARS-COV-2, to conceal the grant funding they had received from the National Institute of Health ("NIH") was being directed toward "*Gain of Function*" research, and to conceal their violation(s) of the terms of a 2014 "exemption" obtained by EcoHealth, (waiving restrictions of a federal moratorium placed on *Gain of Function* research by President Barack Obama in 2014), said exemption enabled Defendants to continue funding the Wuhan Lab's creation of the SARS-COV-2, directly and proximately causing Plaintiffs' injuries.<sup>3</sup> Exhibit "2" National Institute of Health letter dated October 21, 2014.

12. The *Gain of Function* moratorium applied to NEW rather than existing funding. Research funded in part by The National Institute of Allergy and Infectious Diseases through EcoHealth which we have termed "The SARS-CoV-2 Creation Project" was already underway at the time the

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<sup>3</sup> <https://www.congress.gov/bill/117th-congress/senate-bill/3012>

moratorium was declared. Ralph Baric, who was conducting *Gain of Function* research conducted at the University of North Carolina Chapel Hill, and in partnership with researchers from the Wuhan Institute of Virology petitioned the NIH biosecurity board for an exemption from the pause. It was subsequently granted.<sup>4</sup>

### **CPLR ARTICLE 16**

13. If it is deemed by this Court that Article 16 of the CPLR applies to this action, the Plaintiffs assert this action falls within one or more of the exceptions set forth in CPLR § 1602 including, but not limited to, the exception for cases where a person is held liable for causing the claimant's injury by having acted with reckless disregard for the safety of others [CPLR § 1602(7)]; the exception for cases involving any person held liable for causing claimant's injury by having unlawfully released into the environment a substance ultra-hazardous to public health, safety or the environment [CPLR § 1602(9)]; the exception for any parties found to have acted knowingly or intentionally and in concert to cause the acts or failures upon which liability is based [CPLR § 1602(11)]; the exception based upon Defendants' non-delegable duty to warn of the health hazards of genetically manipulated viruses [CPLR § 1602(2)(iv)]; and the exception for persons held liable in a product liability action where the manufacturer of the product is not a party to the action and jurisdiction over the manufacturer could not with due diligence be obtained [CPLR § 1602(10)].

### **PARTIES**

#### **PLAINTIFFS**

#### **14. KATHLEEN MCKINNISS**

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<sup>4</sup> <https://redstate.com/scotthounsell/2021/09/14/revealed-fauci-ignored-obamas-ban-on-gain-of-function-research-ordered-coronavirus-studies-to-continue-n442198>



- a. Plaintiff Kathleen McKinniss is a resident of Worthington, Ohio, County of Franklin, and is the surviving daughter and caregiver of Rosemarie McKinniss, a decedent who was killed as a result of the SARS-CoV-2 virus.
- b. Rosemarie McKinniss was infected with SARS-CoV-2 while in a nursing home in Franklin County, Ohio, and died from exposure to SARS-CoV-2 on April 24, 2020.
- c. Plaintiff Kathleen McKinniss is pending an appointment as the personal representative of the Estate of Rosemarie McKinniss by the State of Ohio.
- d. Plaintiff Kathleen McKinniss brings this action on her own behalf, on behalf of the Estate of Rosemarie McKinniss, and on behalf of all heirs of Rosemarie McKinniss, in their own right and in their capacities as beneficiaries of the Wrongful Death, Survival, and other claims pled in this Verified Complaint.

**15. CARIN ROSADO**

- a. Plaintiff CARIN ROSADO (“Plaintiff Rosado”) is a resident of Rocky Point, New York, County of Suffolk, and suffered injuries alleged in this Complaint as a direct and proximate result of the Defendants’ unlawful and tortious conduct.
- b. Plaintiff Rosado was a front-line worker with the NYC Fire Department (FDNY) as an emergency medical technician (EMT), and deemed to be an essential worker required to work during the early stages of Covid 19, when its consequences were then unknown.

**16. GERALDINE FINN**

- a. Plaintiff Geraldine Finn (“Plaintiff Finn”) resides in New York, County of Rockland, and is the surviving spouse of decedent James Finn, who died at Montefiore Nyack Hospital on April 18, 2021 as a result of the exposure to SARS-

CoV-2 virus as a direct and proximate result of Defendants' unlawful and tortious conduct.

- b. Plaintiff Geraldine Finn was appointed the personal representative of the Estate of James Finn and is the surviving spouse.

## **DEFENDANTS**

### **17. ECOHEALTH ALLIANCE**

- a. Defendant ECOHEALTH ALLIANCE, Inc. ("EcoHealth") is a 501 (c)(3), non-governmental organization, with a street address of 520 8<sup>th</sup> Avenue, Ste. 1200, New York, NY 10018, registered in New York State as a foreign not-for-profit corporation, and is authorized to transact business in New York State as a "global environmental health nonprofit corporation". Its principal place of business is in the City of New York, County of New York.
- b. Upon information and belief, EcoHealth, formerly "Wildlife Trust," was initially organized under the laws of the Commonwealth of Massachusetts on or about July 20, 2000, and registered by Application for Authority with the State of New York, filed with the Department of State on or about July 27, 2000.
- c. At all times relevant, EcoHealth, through the above-captioned Defendants, has engaged in the oversight, direction, control, funding, research and development of the genetically modified coronavirus, a.k.a., SARS-CoV-2 virus, with full knowledge of its dangerous propensities and lethality, directly and proximately causing Plaintiffs damages from the release of their lab-made, ultra-hazardous SARS-CoV-2 virus into the environment.<sup>5</sup>

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<sup>5</sup> Jeffrey Sachs. Finding the Origins of the COVID-19 and Preventing Future Pandemics.

**18. PETER DASZAK**

- a. Defendant PETER DASZAK (“Daszak”) is the President of EcoHealth, transacting business in New York State, residing in Suffern, New York, County of Rockland, and owning real property there. Pursuant to CPLR § 503(c), venue in Rockland County is appropriate.
- b. Defendant Daszak is the president of Defendant Ecohealth Alliance, receives a salary for his work and is not subject to the protections of Not-for-Profit Corporations Law § 720-a and the pleading requirements of CPLR § 3016(h). The Verified Complaint alleges *inter alia* negligence by Defendant Daszak directly and proximately causing Plaintiffs’ injuries.
- c. Upon information and belief, Defendant Daszak holds a doctorate in infectious diseases awarded in the United Kingdom.
- d. At all times relevant, Defendant Daszak, individually, and acting in concert with the other above-captioned Defendants, engaged in the oversight, direction, control, funding, research, development and creation of the genetically modified coronavirus, resulting in the SARS-CoV-2 global pandemic and Plaintiffs’ injuries suffered therefrom.
- e. At all times relevant, Defendant Daszak engaged in a cover-up of the origins of SARS-CoV-2 to mislead the public and health officials as to his role in the origin of SARS-CoV-2, and the lethality, virulence and transmissibility of the ultra-hazardous lab-made virus released into the environment by the Defendants.

**19. JANET D. COTTINGHAM**

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<https://www.jeffsachs.org/newspaper-articles/cp24mtcpswgyty5st4pm29mwh6dt2d> accessed 9.10.2022

- a. Defendant JANET D. COTTINGHAM, also known as JANET DASZAK, (“Cottingham-Daszak”) is an immunologist, and the wife of Peter Daszak, also employed by EcoHealth, transacting business in New York State, residing in Suffern, New York, County of Rockland, and owning real property there. Pursuant to CPLR § 503(c), venue in Rockland County is appropriate.
- b. At all times relevant, Defendant Cottingham-Daszak, individually and acting in concert with the other above-captioned Defendants, has engaged in the oversight, direction, control, funding, research, development and creation of the genetically modified coronavirus, resulting in the SARS-CoV-2 global pandemic and Plaintiffs’ injuries suffered therefrom.
- c. At all times relevant, Defendant Cottingham-Daszak engaged in a cover-up of the origins of SARS-CoV-2 to mislead the public and health officials as to her role in the origin of SARS-CoV-2, and the lethality, virulence and transmissibility of the ultra-hazardous lab-made virus released into the environment by Defendants.

## **20. RALPH BARIC**

- a. Defendant RALPH BARIC (“Baric”) is a Professor in the Department of Epidemiology and the Department of Microbiology and Immunology at the University of North Carolina, Chapel Hill, North Carolina.
- b. At all times relevant, Defendant Baric, individually and acting in concert with the other above-captioned Defendants, engaged in the oversight, direction, control, research, development and creation of the genetically modified coronavirus, resulting in the SARS-CoV-2 global pandemic and Plaintiffs’ injuries.

## **21. W. IAN LIPKIN**

- a. Defendant W. IAN LIPKIN (“Lipkin”) is the John Snow Professor of Epidemiology at the Mailman School of Public Health at Columbia University, with his principal place of employment and business in the State of New York.
- b. At all times relevant, Lipkin was listed as a member of EcoHealth’s advisory board from 2012 to 2014, and has co-authored more than ten (10) scientific papers with Daszak and EcoHealth researchers between 2011 and 2021. Those papers include the “PROXIMAL ORIGINS OF SARS-CoV-2,” an exploration of the origins of the genetically manipulated coronavirus.<sup>6</sup>
- c. At all times relevant, Defendant Lipkin, individually and acting in concert with the other above-captioned Defendants, has engaged in the oversight, direction, control, research, development and creation of the genetically modified coronavirus, resulting in the SARS-CoV-2 global pandemic, directly and proximately causing Plaintiffs’ injuries.
- d. At all times relevant, Defendant Lipkin engaged in a cover-up of the origins of SARS-CoV-2 to mislead the public and health officials as to his role in the origin of SARS-CoV-2, and the lethality, virulence and transmissibility of the lab-made virus released into the environment by Defendants.

22. **JOHN AND JANE DOES 1-1000** – To be determined.

### **JURISDICTION AND VENUE**

23. Pursuant to CPLR § 301, the Supreme Court of the State of New York may properly exercise jurisdiction over the parties given that at relevant times they resided, were formed, and/or maintained their principal places of business within the State of New York.

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<sup>6</sup> Andersen KG, Rambaut A, Lipkin WI, Holmes EC, Garry RF. “The proximal origin of SARS-CoV-2.” Nature Medicine 2020 Mar;26:450-452

24. Pursuant of CPLR § 302(a)(1)(2)(4), the Supreme Court of the State of New York may properly exercise jurisdiction over any parties that may be a non-domiciliary of the State of New York given that at all relevant times, within the State of New York, they transacted business, contracted to supply services, and committed tortious acts leading to the damages sustained by Plaintiffs, regularly engage in business and other persistent courses of conduct here, and/or own, use, or possess real property in New York State.

25. The Defendants regularly solicit business in New York State, and have transacted business, contracted to supply services, committed tortious acts leading to damages sustained by Plaintiffs, and engaged in persistent courses of conduct in the State of New York.

26. Defendants Daszak and Daszak-Cottingham own, use and possess real property in New York State, and, upon information and belief, Defendant EcoHealth uses and possesses real property in New York State.

27. Pursuant to CPLR § 302 (a)(3), the New York State courts may properly exercise jurisdiction for tortious acts committed outside the State of New York by a non-domiciliary of New York which lead to injuries sustained in New York, when the non-domiciliary regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in the state, or expects or should reasonably expect the act to have consequences in the state, and earning substantial revenue from interstate or international commerce.

28. The Defendants regularly solicited business, engaged in other persistent courses of conduct, derived substantial revenue from services rendered in the State of New York, derived substantial revenue from interstate commerce, derived substantial revenue from international

commerce, and expect and/or should reasonably expect that their improper acts would have consequences in the State of New York.

29. Pursuant of CPLR §503 (a), venue is properly fixed in the Supreme Court, Rockland County as it is the County in where a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred, and is the domiciliary residence of Defendants Daszak and Cottingham-Daszak and domiciliary residence of Plaintiff Geraldine Finn.

### **FACTUAL ALLEGATIONS**

30. EcoHealth, formerly Wildlife Trust, is a nonprofit organization that initially focused on wildlife conservation and environmental issues. In 2010, the organization rebranded itself to focus on "global health" and the "relationships between ecosystems and animal and human health."<sup>7</sup>

31. EcoHealth currently has on its website its many partners, which identifies several prominent American universities, government agencies such as the Centers for Disease Control ("CDC"), the National Institutes of Health ("NIH"), and pharmaceutical companies such as Johnson and Johnson ("J&J").<sup>8</sup>

32. According to a press release dated November 21, 2014, EcoHealth Alliance announced their participation in the second phase of the PREDICT project which would develop "initiatives with to help prepare the world for emerging infectious diseases like pandemic influenza, SARS, and Ebola." Id.

33. EcoHealth Alliance, in the same announcement, also announced that it was partnering in this project with the University of California-Davis, Metabiota, Smithsonian Institution, Wildlife

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<sup>7</sup> Entering its Fifth Decade, Wildlife Trust Re-Brands as EcoHealth Alliance. September 21, 2020, <https://www.ecohealthalliance.org/2010/09/entering-its-fifth-decade-wildlife-trust-re-brands-as-ecohealth-alliance>

<sup>8</sup> <https://www.ecohealthalliance.org/partners>

Conservation Society, Columbia University, Boston Children's Hospital, International Society for Infectious Disease, and University of California – San Francisco.<sup>9</sup>

34. Starting in 2008, EcoHealth received funding specifically related to *Gain of Function* research from two U.S. government sources: the U.S. Agency for International Development (“USAID”) through a 5-year program called “PREDICT,” and the National Institutes of Health (“NIH”). It also received grants from the National Institute of Allergy and Infectious Diseases (“NIAID”) related to “Understanding the Risk of Bat Coronavirus Emergence.”<sup>10</sup> Exhibit “3” Declaration of Dr. Andrew G. Huff, PhD, M.S. dated September 13, 2022.

35. At all times relevant hereto, EcoHealth has received a total of \$16,874,314 in grant money from the NIH and the NIAID, which has been directed toward *Gain of Function* coronavirus research that led to the creation and release of the ultra-hazardous SARS-CoV-2 virus into the environment, directly and proximately causing Plaintiffs' injuries.<sup>11</sup>

36. At all times relevant hereto, EcoHealth was funneling to the Wuhan Lab sub-grants and other U.S. taxpayer funds awarded to it by NIH, and these grants were used for *Gain of Function* research enabled by EcoHealth after receiving an NIH “exemption” from a 2014 moratorium restriction placed on *Gain of Function* funding and research by President Obama.

37. Upon information and belief, Defendants used that “exemption” from the 2014 U.S. Government moratorium on *Gain of Function* research to allow EcoHealth to continue existing *Gain of Function* research already underway.<sup>12</sup>

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<sup>9</sup> USAID Announces Second Phase of Predict Project with Global Partners. Nov. 24, 2014.

<https://www.ecohealthalliance.org/2014/11/usaaid-announces-second-phase-of-predict-project-with-global-partners>

<sup>10</sup> [https://www.usaspending.gov/award/ASST\\_NON\\_R01AI110964\\_7529](https://www.usaspending.gov/award/ASST_NON_R01AI110964_7529)

<sup>11</sup> <https://reporter.nih.gov/search/Ho2wtHWeYEyi7P9MQUkUtQ/projects>

<sup>12</sup> *Id.*



38. Upon information and belief, Defendants subcontracted through EcoHealth the funding necessary to perform the *Gain of Function* research at the Wuhan Lab, and provided direct funding and resources to perform *Gain of Function* research to a bat virus researcher named Dr. Zheng-Li, consequently violating the terms of the grant funding for which the exemption to the moratorium was obtained, specifically, prohibiting outsourcing of *Gain of Function* research by EcoHealth to the Wuhan Lab and Dr. Zheng-Li.<sup>13</sup>

39. In its 2014 NIH Notice of Award grant to EcoHealth, Dr. Zheng-Li and the Wuhan Lab were listed by Peter Daszak as one of the collaborating institutions that were specifically allocated funds for “subcontract/consortium activity with the Wuhan Institute of Virology” and were engaged in *Gain of Function* research.<sup>14</sup>

40. In the “accomplishments” section of the 2014 NIH Notice of Award, Defendant Peter Daszak reported that EcoHealth had collected 121 bat fecal samples in Laos to test for viruses by Dr. Zheng-Li, who is now commonly known in the media as “bat lady.”<sup>15</sup>

41. Dr. Zheng-Li at the Wuhan Lab, working in partnership with Defendants, was successful on at least one occasion in developing a dangerous, genetically modified coronavirus SARS-CoV-2 that could jump species, and could infect humans, and seemed to be resistant to treatment and prevention with vaccines.<sup>16</sup>

42. In 2010, Dr. Zheng-Li, in partnership with Defendants, conducted research on a virus called “WIV1” with clones of spike proteins and then tested the creation in humanized mice. Upon

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<sup>13</sup> *Id.*

<sup>14</sup> Notice of Award. Grant Number 1R01AI110964-01

<https://www.nih.gov/sites/default/files/institutes/foia/20211214-foia-log-2021.pdf>

<sup>15</sup> *Id.*

<sup>16</sup> Menachery, V. D., Yount, B. L., Debbink, K., Agnihothram, S., Gralinski, L. E., Plante, J. A., ... & Baric, R. S. (2015). A SARS-like cluster of circulating bat coronaviruses shows potential for human emergence. *Nature medicine*, 21(12), 1508-1513.

exposure to the virus, the mice showed signs of severe pathogenesis. All of the Defendants knew or should have known that WIV1 was potentially dangerous to humans.<sup>17</sup>

43. Plaintiffs allege the viruses collected from the aforementioned bat fecal samples by Dr. Zheng-Li were genetically manipulated through *Gain of Function* research, thus creating a lab-made, SARS-CoV-2 virus which causes an infection associated with fever and signs and symptoms of pneumonia or other respiratory illness. SARS-CoV-2 appears to be transmitted from person to person predominantly through droplet and/or aerosol transmission, and when spread in the global population has caused significant public health consequences, and directly and proximately caused Plaintiffs' injuries.<sup>18</sup>

44. At all times relevant hereto, Defendants knew that their *Gain of Function* SARS-CoV-2 virus was ultra-hazardous, and that exposure thereto would cause Plaintiffs severe and permanent physical and emotional injuries, and economic loss.

45. At all times relevant hereto, SARS-CoV-2 also known as Covid 19 has been listed pursuant to 42 C.F.R. §73.3(b) as one of what is categorized as "Select Agents" because HHS has determined that SARS-CoV-2 viruses "have the potential to pose a severe threat to public health and safety." 42 C.F.R. § 73.3(a).<sup>19</sup>

46. Pursuant to 42 C.F.R. §73.12, research involving "Select Agents" is subject to strict biosafety and containment procedures because of the severe threat they pose to public health and safety.<sup>20</sup>

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<sup>17</sup> Menachery, V. D., Yount Jr, B. L., Sims, A. C., Debbink, K., Agnihothram, S. S., Gralinski, L. E., ... & Baric, R. S. (2016). SARS-like WIV1-CoV poised for human emergence. *Proceedings of the National Academy of Sciences*, 113(11), 3048-3053.

<sup>18</sup> <https://www.who.int/news-room/questions-and-answers/item/coronavirus-disease-covid-19-how-is-it-transmitted>

<sup>19</sup> <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-F/part-73/section-73.3>

<sup>20</sup> <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-F/part-73/section-73.12>

47. On February 23, 2016, the New York Academy of Medicine hosted an event entitled, “Where Will The Next Pandemic Come From?”<sup>21</sup> Defendant Peter Daszak was a member of the panel at this event. There, Daszak presciently explained exactly how the Covid-19 pandemic would come about less than four years later: “We found other coronaviruses in bats, a whole host of them; some of them looked very similar to SARS. So we sequenced the spike protein, the protein that attaches to cells; then we – I didn’t do this work, my colleagues in China did this work – you create pseudo-particles, you insert the spike proteins from those viruses, see if they bind to human cells, each step of this you move closer and closer to this virus could really become pathogenic in people.”<sup>22</sup>

48. Defendant Daszak’s statement (admitting “we” did this work) demonstrates his culpability in working to develop and unleash the ultrahazardous SARS-CoV-2 on the global population.

49. In December of 2017, federal policy changed so as to again permit federal funding of gain of function research which had previously been the subject of a moratorium imposed by President Obama in 2014. During President Trump’s tenure, the framework established in 2017 required that any federal funding sought for gain of function research be subject to enhanced oversight given the “biosafety and biosecurity risks associated with undertaking such research.”<sup>23</sup> Pursuant to the guidelines, a “Potential Pandemic Pathogen” [“PPP”] is “likely highly transmissible and likely capable of wide and uncontrollable spread in human populations” and “likely highly virulent and likely to cause significant morbidity and/or mortality in humans.”<sup>24</sup>

50. Pursuant to the federal guidelines, “[a]n enhanced PPP is defined as a PPP resulting from the enhancement of the transmissibility and/or virulence of a pathogen. Enhanced PPPs do not

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<sup>21</sup> <https://www.nyam.org/events/event/where-will-next-pandemic-come/> (last visited 10/2/2022)

<sup>22</sup> Daszak C-SPAN video (See <https://twitter.com/i/status/1463673517501816840>) (last accessed 10/2/2022).

<sup>23</sup> <https://www.phe.gov/s3/dualuse/Pages/p3co.aspx>

<sup>24</sup> *Id.*

include naturally occurring pathogens that are circulating in or have been recovered from nature, regardless of their pandemic potential.” So, PPP is lab-created or lab-enhanced.<sup>25</sup>

51. Upon information and belief, as a lab creation with enhanced transmissibility and virulence, SARS-Co V-2 is an enhanced PPP.

52. Given the risks associated with enhanced PPP, the guidelines require that proposed *Gain of Function* research that may be funded by a federal agency be subjected to additional review by the Department of Health and Human Services.<sup>26</sup>

53. Upon information and belief, two (2) years before the release of SARS-CoV-2 into the environment, U.S. Embassy officials visited the Wuhan Lab, and reported that safety in the lab was inadequate. One U.S. Embassy official specifically warned about the lab’s experiments on bat viruses and the potential for human transmission and the risk of a SARS pandemic, and this information was known, or should have been known, to Defendants’ prior to subcontracting their *Gain of Function* research to the Wuhan Lab and Dr. Zheng-Li.<sup>27</sup>

54. Upon information and belief, former EcoHealth Alliance employee Dr. Andrew Huff informed Dr. Peter Daszak and other members of the EcoHealth Alliance executive team that he felt that, “there were biosafety and biosecurity risks in contract laboratories.” According to Huff, “Dr. Daszak refused to mitigate the risks without any objection or discussion from the other executives. In my opinion, Daszak was dismissive of my concerns.” See Exhibit 3, pg. 4.

55. Upon information and belief, there had been prior breaches of bio-security involving SARS viruses at PRC laboratories, including the Wuhan Lab.

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Josh Rogin. Opinion: State Department cables warned of safety issues at Wuhan lab studying bat coronaviruses. Washington Post April 14 2020  
<https://www.washingtonpost.com/opinions/2020/04/14/state-department-cables-warned-safety-issueswuhan-lab-studying-bat-coronaviruses/>

56. Before China or the WHO made any official statement on the nature of the coronavirus, on about January 13, 2020, Defendants Ralph Baric and Peter Daszak appeared to be confident that the coronavirus in China was a “highly variable SARS-like CoV.”<sup>28</sup> Baric in an email referred to the coronavirus as “*Our* highly variable SARS-like COV,” displaying ownership and a familiarity with the virus. Exhibit “4” January 13, 2020 email exchange between Defendants Peter Daszak and Dr. Ralph Baric.

57. On April 18, 2020, Defendant Daszak and “His” Collaborators infamously thanked Dr. Anthony Fauci -- in writing, as revealed when thousands of emails were disclosed -- for assisting him and his “collaborators,” which then included, *inter alia*, the Wuhan Lab, in their efforts to help the Wuhan Lab and China cover up the COVID-19 outbreak in the Summer and Fall of 2019. Further, Daszak thanked Fauci for persuading WHO not to sound the pandemic alarm as required by the 2005 “International Health Regulations,” despite the fact that both the United States and China are among the 196 countries that agreed to honor same. *Compare* Exhibit “5” April 18, 2020, email from Daszak to Fauci with email response of April 19, 2020, from Fauci to Daszak; Exhibit “6” 2005 CDC International Health Regulations.

58. In an October 20, 2021 letter (“Tabak Letter”), NIH Deputy Director Lawrence Tabak wrote to Representative James Comer (R-KY) that the NIH had given a grant to EcoHealth Alliance, Inc., which then awarded a subgrant to the Wuhan Institute of Virology, and that EcoHealth had failed to submit reports as required under the terms of the grant.<sup>29</sup>

59. In the Tabak Letter, Tabak stated that EcoHealth’s “limited experiment” looked at whether spike proteins from naturally occurring bat viruses circulating in China were capable of binding to

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<sup>28</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4801244/pdf/pnas.201517719.pdf>

<sup>29</sup> <https://int.nyt.com/data/documenttools/nih-eco-health-alliance-letter/512f5ee70ce9c67c/full.pdf> (last accessed 10/2/2022).

the ACE2 receptor in a mouse model. Tabak stated that mice infected with the modified virus became sicker than those who were infected with the unmodified virus. Tabak also wrote, “[a]s sometimes occurs in science, this was an unexpected result of the research, as opposed to something that the researchers set out to do.”<sup>30</sup> Exhibit “7” Tabak letter dated October 20, 2021.

60. Tabak explained that while the NIH determined the research did not involve enhanced pathogens of pandemic potential, it nevertheless required “an additional layer of oversight” as a condition for the grant. Specifically, EcoHealth was required to “report immediately a one log increase in growth” which would then prompt a secondary review to determine whether the research aims should be re-evaluated or new biosafety measures should be enacted.”<sup>31</sup>

61. Tabak continued: “EcoHealth failed to report this finding right away, as required by the terms of the grant. EcoHealth is being notified that they have five days from today to submit to NIH any and all unpublished data from the experiment and work conducted under this award. Additional compliance efforts continue.”<sup>32</sup>

62. Upon information and belief, EcoHealth Alliance facilitated and was responsible for the gain-of-function research that resulted in the creation of SARS-COV2 during the tenure of Dr. Andrew Huff’s employment and with notice of the potential for safety risks in doing so. See Exhibit 3, Huff Declaration.

**RELEASE OF THE SARS-CoV-2 ULTRA-HAZARDOUS VIRUS  
INTO THE ENVIRONMENT**

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

63. On January 30, 2020, the World Health Organization (“WHO”) designated SARS-CoV-2 as a public health emergency of international concern, advising that further cases may appear in any country.<sup>33</sup>

64. On January 31, 2020, the U.S. Health and Human Services (“HHS”) Secretary, Alex M. Azar II, declared a public health emergency for the entire United States to aid the nation’s healthcare community in responding to Covid-19.<sup>34</sup>

65. The declaration of a public health emergency caused the Plaintiffs, indeed most of the world’s population, to “isolate,” which is “the physical separation and confinement of an individual or group of individuals who are infected or reasonably determined by the State Commissioner of Health or local health authority to be infected with a highly contagious disease or organism, for such time as will prevent or limit the transmission of the reportable disease or organism to non-isolated individuals, in the clinical judgement of the State Commissioner of Health, or of the local health authority, and consistent with any direction that the State Commissioner of Health may issue.”<sup>35</sup>

66. Upon information and belief, the genetically manipulated coronavirus SARS-CoV-2 was developed and funded, in part, by the Defendants’ research, development and financing, acting through their agents, employees and representatives, and was recklessly released as an ultra-hazardous virus into the global ecosystem causing a worldwide coronavirus pandemic, and directly and proximately causing Plaintiffs’ injuries.

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<sup>33</sup> [https://www.who.int/news/item/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)](https://www.who.int/news/item/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov))

<sup>34</sup> <https://aspr.hhs.gov/legal/PHE/Pages/2019-nCoV.aspx>

<sup>35</sup> <https://regs.health.ny.gov/sites/default/files/proposed-regulations/Investigation%20of%20Communicable%20Disease%3B%20Isolation%20and%20Quarantine.pdf>

67. Upon information and belief, Defendants created, and caused the release of SARS-CoV-2 into the environment, exposing Plaintiffs to its hazards, and directly and proximately causing their alleged injuries as set forth in this Complaint.

68. Upon information and belief, at all times relevant hereto, each of the Defendants was researching and creating an ultra-hazardous virus, was aware of the adverse consequences caused by its release into the environment, and knew of the 2014 U.S. government moratorium on *Gain of Function* research. Id.

69. Upon information and belief, the Defendants, acting individually, in concert and through their servants, agents, and employees, either accidentally or intentionally caused the release of the SARS-CoV-2 ultra-hazardous virus into the environment which, due to its uncontrollable airborne properties, allowed it to spread.

70. Upon information and belief, the Defendants, acting in concert, failed to disclose to and warn Plaintiffs, and all those similarly situated, of the dangers associated with exposure to the Defendants' ultra-hazardous SARS-CoV-2 virus.

71. Upon information and belief, Defendants collaborated to conceal SARS-CoV-2's origins by publishing articles "debunking" the assertion of lab-made origins for the SARS-CoV-2.

<sup>36</sup>.

72. Specifically, in or about February 2020, during the early stages of the pandemic in the United States, as theories as to the source and origin of the SARS-CoV-2 virus causing COVID-19 were being voiced, Defendant Daszak coordinated the authorship and group signing of a letter to medical journal *Lancet*, without supporting research, intending to intimidate the scientific

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<sup>36</sup> Emails show scientists discussed masking their involvement in key journal letter on COVID origins. US Right to Know Feb 15 2021 <https://usrtk.org/biohazards-blog/scientists-masked-involvement-in-lancetletter-on-covid-origin/> accessed 9.10.2022 & Exhibit 3, Huff Declaration.



community into accepting, as a fact, that the COVID-19 pandemic occurred naturally -- knowing that it was actually lab created. In this manner, the Defendants deflected the truth about the origins of this ultra-hazardous virus away from them.

73. Notwithstanding Daszak's claims, upon information and belief, during the Summer and Fall of 2019, personnel at the Wuhan Lab began developing COVID-19 symptoms -- long before the outbreak was first reported publicly.

74. Upon information and belief, the statements of Defendants regarding the origins and release of the ultra-hazardous SARS-CoV-2 virus into the environment were knowingly false, and were designed by Defendants to mislead Congress, as well as medical researchers, immunologists, doctors, the medical community, and the public about their *Gain of Function* research and as to Defendants' role in the origins, creation and release of the ultra-hazardous SARS-CoV-2 virus into the environment, that directly and proximately caused Plaintiffs' injuries.<sup>37</sup>

75. Upon information and belief, Defendants' concerted actions took either the form of an expressed or implied agreement not to warn or was achieved by providing substantial assistance or encouragement to one another to conceal their wrongful course of conduct.<sup>38</sup> As a result of Defendants' concerted action, Plaintiffs directly and proximately suffered the personal injuries set forth in this Complaint.

76. Upon information and belief, Defendants, acting in combination, failed to disclose or to warn the Plaintiffs, and those similarly situated, of the known dangers associated with the exposure to Defendants' ultra-hazardous SARS-CoV-2 virus.<sup>39</sup>

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

77. Upon information and belief, Defendants manufactured the ultra-hazardous virus to which all the above-named Plaintiffs were exposed and physically injured and/or killed, rendering Defendants strictly liable collectively, and/or in the alternative, individually, for the serious personal injuries and/or deaths that Plaintiffs have suffered from Defendants' intentional, reckless and/or negligent conduct.

### **PLAINTIFF-SPECIFIC ALLEGATIONS**

#### **Plaintiff McKinniss**

78. Plaintiff McKinniss, by reason of exposure to each and every Defendants' ultra-hazardous coronavirus SARS-CoV-2, lost her elderly mother who had been exposed to SARS-CoV-2 in a nursing home, and died from said exposure on April 24, 2020, directly and proximately causing her physical and emotional injuries, and economic loss.

79. Death Certificate states decedent's cause of death was Covid 19. Exhibit "8" McKinniss Certificate of Death dated April 24, 2022.

80. Plaintiff McKinniss' mother was very afraid when stricken with Covid 19, and was isolated from her family in her final days after being quarantined suffering extreme emotional distress and intense paid and physical suffering.

81. The death of Rosemarie McKinniss caused emotional and physical harm, and economic loss to Plaintiff McKinniss, a direct and proximate result of Defendants' unlawful and tortious conduct. Exhibit "9", Photos of Decedent McKinniss.

#### **Plaintiff Rosado**

82. Plaintiff Rosado was a front-line, essential worker with the NYC Fire Department working as an EMT. Plaintiff Rosado worked through the early stages of SARS-CoV-2 when its

consequences were then unknown and being concealed by Defendants. Plaintiff Rosado contracted SARS-CoV-2.

83. Plaintiff Rosado's injuries include illness caused as a result of SARS-CoV-2 exposure and infection, directly and proximately causing her emotional and physical harm, and economic loss.

84. Plaintiff Rosado suffered migraines, high fever, cough, and intense fear when ill with Covid 19 because of its unknown consequences, in addition to skin sensitivity and loss of taste and smell, affecting her ability to protect herself as a front-line worker. Skin sensitivity and smell are essential components of an EMT employee necessary to protect the EMT, and those in need and receiving emergency services.

85. On January 20, 2022, Plaintiff Rosado was fired by her employer for refusing a Covid-19 vaccination, thus suffering economic and property loss as a result of her loss of continued employment with the City of New York in the FDNY\EMT unit. Exhibit "10" Rosado Letter of Termination dated January 31, 2022.

86. Plaintiff Rosado brings this action on her own behalf seeking compensation for her injuries directly and proximately caused by Defendants' wrongful conduct causing her personal and emotional injuries, extreme fear and anguish and economic loss.

Plaintiff Finn

87. Plaintiff Finn's husband, James, deceased was admitted to Montefiore Nyack Hospital in Nyack Village, New York, on March 25, 2021, and after receiving the standard COVID treatment protocol, died on April 18, 2021. Exhibit "11", Finn Certificate of Death dated April 18, 2021.

88. Plaintiff Finn's husband James suffered from intense pain and fear prior to his death and was ventilated as a standard COVID treatment protocol suffering an agonizing death.

89. The death of James Finn caused emotional and physical harm, and economic loss to Plaintiff Finn, a direct and proximate result of Defendants' unlawful and tortious conduct. Exhibit "12" Photos of Decedent Finn.

### **TOLLING OF THE STATUTE OF LIMITATIONS**

#### **A. Discovery Rule Tolling**

89. Plaintiffs had no way of knowing about the Defendants' actions and omissions as alleged herein with respect to the SARS-CoV-2 virus.

90. Within the time period of any applicable statutes of limitation, Plaintiffs and all others similarly situated could not have discovered through the exercise of reasonable diligence that the Defendants were concealing the conduct complained of herein and exposing the general public to great risks of harm, illness, and death.

91. Plaintiffs did not discover, and did not know of, facts that would have caused a reasonable person to suspect that the Defendants did not report information within their knowledge to federal and state authorities, the medical community, and the general public; nor would a reasonable and diligent investigation have disclosed that the Defendants had concealed information about the creation and release of the ultra-hazardous SARS-CoV-2 virus, which was discovered by Plaintiffs only shortly before this action was filed. Nor, in any event, would such an investigation on the part of Plaintiffs have disclosed that the Defendants' actions and omissions led to a worldwide pandemic and unquantifiable human suffering and damages.

92. For these reasons, all applicable statutes of limitation have been tolled by operation of the discovery rule with respect to claims as to the SARS-CoV-2 virus.

#### **B. Fraudulent Concealment Tolling**

93. All applicable statutes of limitations have also been tolled by the Defendants' knowing and active fraudulent concealment and denial of the facts alleged herein throughout the time period relevant to this action.

94. Instead of disclosing the dangerous nature of the SARS-CoV-2 virus they created, Defendants intentionally obfuscated and sought to convince the world, including Plaintiffs, that the SARS-CoV-2 virus was a natural virus.

95. For these reasons, all applicable statutes of limitation have been tolled due to Defendants' fraudulent concealment related to the origins of the SARS-CoV-2 virus as well as to the existence of Plaintiffs' causes of action.

### **C. Estoppel**

96. The Defendants were under a continuous duty to disclose to Plaintiffs the true character, dangerousness, and lethality of the SARS-CoV-2 virus that was released in 2019.

97. The Defendants knowingly, affirmatively, and actively concealed or recklessly disregarded the true nature, dangerousness, and lethality of the SARS-CoV-2 virus, putting the entire world, including Plaintiffs, at increased risk of harm.

98. Based on the foregoing, the Defendants are estopped from relying on any statutes of limitations in defense of this action.

## **CAUSES OF ACTION**

### **I. NEGLIGENCE FAILURE TO WARN**

99. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

100. Defendants negligently failed to warn Plaintiffs that exposure to their ultra-hazardous SARS-CoV-2, lab-made virus would cause them to develop coronavirus disease, and this failure did in fact cause them to develop corona virus disease, directly and proximately resulting in their injuries alleged in the Verified Complaint.

101. At all times relevant, the Defendants had knowledge superior to that of the U.S. government, and the public, concerning the true hazards of their *Gain of Function* coronavirus SARS-CoV-2, and with intent, concealed said knowledge, directly and proximately causing Plaintiffs' injuries.

102. As researchers, manufacturers and funders of the ultra-hazardous, abnormally dangerous, supercharged coronavirus (SARS-CoV-2), Defendants knew or should have known of its hazards and dangers. Defendants negligently failed to provide adequate and proper warnings to Plaintiffs as to the dangers of the exposure to SARS-CoV-2, directly and proximately causing Plaintiffs' injuries.

103. To the extent that Defendants knew about the hazards of lab-made coronavirus SARS-CoV-2, its origin and release into the environment, Defendants negligently failed to warn and to convey whatever knowledge of the dangers, health hazards, or safety precautions they had to those innocent persons exposed to their ultra-hazardous coronavirus SARS-CoV-2.

104. As a direct result of Defendants' illegal acts, Plaintiffs and Decedents have suffered and endured great pain and mental anguish and suffered loss of enjoyment of their lives.

105. The ultra-hazardous coronavirus SARS-CoV-2 that caused the diseases and injuries and/or deaths of the Plaintiffs and/or Decedents was the results of Defendants' individual, and collective, negligent actions in that, *inter alia*, they negligently designed and manufactured the ultra-hazardous coronavirus SARS-CoV-2 to which the Plaintiffs and/or Decedents were exposed, all

of which evidenced a callous, reckless, wanton, oppressive, malicious, willful, depraved indifference to the health, safety and welfare of the rights of others, and more particularly the rights of the Plaintiffs and Decedents, all of which Defendants had due and timely notice to affirmatively prevent and mitigate.

106. Defendants individually, and/or collectively, negligently failed to render warnings, advise, give instructions and/or information to Plaintiffs so that they could have made an adequate and informed judgment as to the exposure of SARS-CoV-2, and thus were negligent and strictly liable for its release into the environment, and intentional concealment of its origins, impeding effective countermeasures that could have saved lives.

107. Defendants possessed the superior medical data and scientific knowledge which clearly indicated that their virus was ultra-hazardous to the environment and public health, and, prompted by pecuniary motives and self-interest, failed to act upon said medical data and scientific knowledge, and failed to disclose the information to health officials and the public, particularly the Plaintiffs and Decedents, thus leaving them physically vulnerable and uninformed as to the consequences of said exposure to their ultra-hazardous coronavirus SARS-CoV-2.

108. Defendants failed to disclose their role(s) in the origin of SARS-CoV-2, failed to disclose their knowledge of its lethality, transmissibility and virulence, and failed to provide for safety precautions to be observed by persons who would reasonably and foreseeably come into contact with their *Gain of Function* coronavirus SARS-CoV-2.

109. Defendants' complete failure to use reasonable care under all the circumstances is the direct and proximate cause of Plaintiffs' and Decedents' Covid-19 related injuries.

110. Upon information and belief, as a direct and proximate result of the Defendants' negligence in their continuance of *Gain of Function* research and development, and their failure to properly

secure their ultra-hazardous lab-made coronavirus SARS-CoV-2, and their negligent, willful and/or intentional failure to warn Plaintiffs about the severe hazards inherent in the exposure to their *Gain of Function* SARS-CoV-2 virus, the Plaintiffs and Decedents were harmed, suffering serious damages and/or death.

111. Plaintiffs and Decedents did not contribute in any manner to their own injuries and/or deaths caused by Defendants' ultra-hazardous coronavirus SARS-CoV-2 virus released into the environment.

112. As a result of the foregoing, Plaintiffs and Decedents have sustained serious bodily injury, great pain and suffering, economic harm, and/or death, and have incurred and/or will continue to suffer injuries.

113. The intentional and willful conduct complained of herein was grossly unjust and involved high moral culpability, for which punitive damages should be assessed in a sum of money to remedy the injuries and punish Defendants for their unlawful acts.

114. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

## II. STRICT LIABILITY

115. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

116. Defendants, individually, and acting in concert, exposed the public, Plaintiffs, and Decedents to their ultra-hazardous, abnormally dangerous SARS-CoV-2 lab-made virus, and thus



are strictly liable to the Plaintiffs for any and all illness and injuries and/or death caused by the release of the ultra-hazardous, abnormally dangerous SARS-CoV-2 virus from the Wuhan Lab, directly and proximately causing Plaintiffs' and Decedents' injuries and/or death.

117. Because SARS-CoV-2 is designated by the Department of Health and Human Services ("HHS") as a biological agent or toxin with "potential to pose a severe threat to public health and safety," Defendants and their co-conspirators were engaging in an abnormally dangerous activity subject to strict liability without regard to fault for any injury to person or property caused by that activity.<sup>40</sup>

118. The SARS-CoV-2 virus and related spike protein are ultra-hazardous and abnormally dangerous because they necessarily involve a risk of serious harm to humans, which could not have been eliminated by the exercise of utmost care, and are not matters of common usage.

119. At all relevant times, Defendants as part of their business interests with EcoHealth, designed, created, and funded the *Gain of Function* coronavirus SARS-CoV-2, in an unsafe and inherently dangerous manner, and SARS-CoV-2, as expected, did affect many persons coming into contact with the ultra-hazardous virus, directly and proximately causing Plaintiffs' injuries.

120. Defendants outsourced their *Gain of Function* research to the Wuhan Lab without required safety protocols in place for the kind of ultra-hazardous research conducted there, demonstrating a willful and reckless disregard for the dangers associated with *Gain of Function* genetic virus manipulation that, when later released into the environment, directly and proximately caused Plaintiffs' and Decedents' injuries and/or death.

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<sup>40</sup> CFR § 73.3(a) and (b).

121. SARS-CoV-2 was known by Defendants to be dangerous to Plaintiffs' health at the time it was released into the environment, and Defendants knew or should have known SARS-CoV-2 was harmful and deleterious.

122. Defendants either intentionally or accidentally introduced into the environment the lab-made, genetically manipulated coronavirus SARS-CoV-2, thus exposing Plaintiffs and Decedents to this ultra-hazardous product, directly and proximately causing their injuries.

123. At all times relevant, Defendants knew, or should have known, about the serious lab security problems at the Wuhan Lab and its ties to the Chinese military prior to subcontracting their *Gain of Function* research under the guise of pandemic preparedness.

124. As a direct and proximate result of the creation and release of the ultra-hazardous SARS-CoV-2 virus, Plaintiffs and Decedents sustained serious and permanent injuries and suffered loss of enjoyment of their lives.

125. Plaintiffs could not have in the exercise of reasonable care avoided SARS-CoV-2 due to its enhanced airborne transmissibility, nor could Plaintiffs have discovered the ultra-hazardous nature of the coronavirus SARS-CoV-2, created and paid for by Defendants, nor could Plaintiffs have understood or prevented the dangers thereof, to avert their injuries and damages claimed in this case.

126. Defendants, their subsidiaries, agents, and/or servants knew, or should have known, of the existence of the unsafe, ultra-hazardous and/or dangerous condition and *failed to correct* this dangerous condition, and actively took steps to conceal their knowledge of the ultra-hazardous release of SARS-CoV-2 into the environment, directly and proximately causing Plaintiffs' injuries.

127. Defendants' actions as alleged herein was a substantial factor in bringing about Plaintiffs' and Decedents' injuries and/or death.

128. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

### III. BREACH OF WARRANTY

129. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

130. As part of their role as prime and subcontractors, and grant recipients of U.S. tax dollars, the Defendants, expressly and impliedly warranted that their virus research was safe, and fit for its intended purpose, i.e., pandemic preparedness.

131. There were implied/express warranties made by Defendants (as prime and subcontractors and grant recipients of U.S. tax dollars from NIH and NIAID), specifically, that the ultra-hazardous coronavirus SARS-CoV-2 research and creation was fit, and consistent with their particular, intended use, i.e., pandemic preparedness.

132. Defendants breached their implied\express warranties to the Plaintiffs by creating and releasing SARS-CoV-2, and concealing the fact that SARS-CoV-2 was a harmful, toxic lab-made virus that caused the severe and permanent personal injuries and death to Plaintiffs and/or Decedents while engaging in their ordinary course of conduct.

133. Defendants omitted reference to the *Gain of Function* elements of their coronavirus research being conducted with the Wuhan Lab in submissions for federal funding, breaching express and implied warranties.

134. Defendants also omitted reference to the CRISPR elements of their coronavirus research being conducted at the Wuhan Lab in submissions for federal funding.

135. Defendants further omitted reference to the serial passage elements of their coronavirus research being conducted at the Wuhan Lab in submissions for federal funding.

136. Defendants further omitted reference to capabilities of altering coronaviruses from their submissions for federal funding to avoid detection of the risks to human safety associated with the research and to evade enhanced HHS oversight.

137. As a direct and proximate result of the breach of the implied/express warranties of good quality for fitness for the particular use, Plaintiffs were seriously injured and developed coronavirus related diseases and injuries and were caused to endure great pain and suffering and sequela.

138. As a result of Plaintiffs' and Decedents' continuing exposure to Defendants' ultra-hazardous coronavirus SARS-CoV-2, each has suffered, and/or continues to suffer, emotional and physical injuries, economic loss, and/or death.

139. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

#### **IV. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

140. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

141. Defendants negligently inflicted emotional distress on Plaintiffs.

142. Plaintiffs' and Decedents' injuries and/or death are a direct and proximate result of Defendants' abnormally dangerous activity, negligence and carelessness, and their demonstrated wanton and reckless disregard for Plaintiffs' safety and well-being, causing them emotional distress.

143. At all times relevant herein, Defendants negligently inflicted emotional distress on each Plaintiff by creating, releasing and exposing them to their *Gain of Function* coronavirus SARS-CoV-2, and by failing to warn them and the general public of the deleterious effects of exposure to their ultra-hazardous lab-made SARS-CoV-2 virus.

144. As a result of said conduct by Defendants, Plaintiffs have sustained extreme emotional distress and mental anguish associated with their physical injuries as well as extreme emotional distress and mental anguish associated with the failure of Defendants to advise them of the serious health effects associated with exposure to their *Gain of Function* coronavirus SARS-CoV-2.

145. As a result of Defendants mishandling of their *Gain of Function* coronavirus, each Plaintiff was exposed to a dangerous, ultra-hazardous lab-made SARS-CoV-2 virus, and as a direct and proximate result thereof have suffered the injuries alleged in the Complaint, causing them severe and permanent personal injuries as well as extreme emotional distress and mental anguish.

146. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

#### V. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

147. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

148. At all times relevant, Defendants intentionally inflicted emotional distress on each Plaintiff by knowingly, and willfully, manufacturing, creating, producing and mishandling their *Gain of Function* coronavirus SARS-CoV-2, and through their intentional acts failed to advise the general public and the Plaintiffs of the serious health consequences associated with the lab-made SARS-CoV-2 virus, coronavirus, directly and proximately injuring Plaintiffs.

149. As a result of said conduct by Defendants, Plaintiffs have sustained extreme emotional distress and mental anguish associated with the failure of Defendants to advise them of the serious health effects associated with exposure to a *Gain of Function* coronavirus SARS-CoV-2.

150. As a result of the release of their *Gain of Function* coronavirus SARS-CoV-2 into the environment, to which each Plaintiff was exposed, the permanent and debilitating injuries of Plaintiffs now cause them to experience severe emotional distress and mental anguish, a sequela to exposure.

151. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

## VI. NEGLIGENCE

152. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

153. Defendants, and those working in furtherance of their business and within the scope of their authority, owed Plaintiffs, Decedents, the public at large and those working in the Wuhan Lab, a duty to maintain their research under an appropriate biosafety level while implementing proper protective measures so that there would be no leak of the ultra-hazardous SARS-CoV-2 from the Wuhan Lab.

154. Upon information and belief, Defendants were careless and inattentive, directly and proximately causing Plaintiffs' and Decedents' injuries and/or death.

155. Defendants, and those working in furtherance of their business and within the scope of their authority, breached that duty and failed to maintain their research under an appropriate biosafety level, to prevent SARS-CoV-2 from being released from the Wuhan Lab to ensure that no persons working at or visiting the Wuhan Lab could get infected by SARS-Co V-2 and upon leaving the Wuhan Lab become a spreader of the virus caused by their negligence.

156. Upon information and belief, Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duty and failed to implement proper protective measures making them negligent.

157. Defendants, and those working in furtherance of their business and within the scope of their authority, owed the Plaintiffs a duty to perform an appropriate risk assessment so that there would be no leak of the ultra-hazardous SARS-CoV-2 from the Wuhan Lab, making them negligent.

158. Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duty and failed to use enhanced bio-safety containment processes, making them negligent.

159. Defendants, and those working in furtherance of their business and within the scope of their authority, owed Plaintiffs and Decedents a duty to protect them from the risks of exposure to *Gain of Function* coronavirus SARS-CoV-2.

160. Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duty and failed to protect Plaintiffs and Decedents from the risks of exposure to *Gain of Function* coronaviruses SARS-CoV-2, a product and creation of their research and experiments, making them negligent.

161. Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duties to the Plaintiffs and Decedents by disregarding warnings about safety breaches and lax biosecurity at the Wuhan Lab, making them negligent.

162. Defendants, and those working in furtherance of their business and within the scope of their authority, owed Plaintiffs and Decedents a duty to maintain necessary bio-safety and biosecurity standards to prevent release of the *Gain of Function* coronavirus SARS-CoV-2, a creation of their research and experimentation, so that there would be no release of SARS-CoV-2 from the Wuhan Lab and no one working at or visiting the Wuhan Lab could get infected by SARS-CoV-2, spreading the virus.

163. The acts and omissions of Defendants, and those working in furtherance of their business and within the scope of their authority, had a high degree of moral culpability.



164. As a result of Defendants' negligence, and those working in furtherance of their business and within the scope of their authority, in violation of the duties they owed to others, the Plaintiffs and Decedents were damaged and/or killed by exposure to the SARS-CoV-2 virus.

165. As a result of the negligence of the Defendants, and those working in furtherance of their business and within the scope of their authority, in violation of the duties they owed to the Plaintiffs and Decedents, each Plaintiff and Decedent suffered physical and emotional injury, economic loss, and/or death.

166. The limitations on liability set forth in CPLR § 1601 do not apply to this action by reason of one or more of the exceptions set forth in CPLR § 1602.

167. WHEREFORE, Plaintiffs demand judgment in their favor against all Defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

## **VII. GROSS NEGLIGENCE**

168. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

169. Defendants, and those working in furtherance of their business and within the scope of their authority, owed the Plaintiffs, Decedents, the public at large and those working in the lab, a duty to maintain their research under an appropriate biosafety level while implementing proper protective measures so that there would be no leak of the ultra-hazardous SARS-CoV-2 from the Wuhan Lab.

170. Defendants failed to use even slight care, and showed purposeful indifference to the reasonable safety of others, in that Defendants were not only careless, but reckless and deceitful, and engaged in behavior so egregious it was deliberate, with wanton and complete disregard for the safety of others, directly and proximately causing Plaintiffs' injuries making them grossly negligent.

171. Defendants engaged in willful misconduct by intentionally studying the dangerous agent as alleged herein, with full knowledge that their conduct would likely result in injury, damage, and/or death.

172. Defendants actions and omissions were so reckless under the circumstances and indicate a disregard of the consequences of their actions, which ultimately led to a global pandemic and untold damages.

173. Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duties and failed to maintain their research under an appropriate biosafety level, to prevent SARS-Co V-2 from being released from the Wuhan Lab to ensure that no persons working at or visiting the Wuhan Lab could get infected by SARS-CoV-2 and upon leaving the Wuhan Lab spread the virus, making Defendants grossly negligent.

174. Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duty and recklessly failed to implement proper protective measures.

175. Defendants, and those working in furtherance of their business and within the scope of their authority, owed Plaintiffs and Decedents a duty to perform an appropriate risk assessment so that there would be no leak of the ultra-hazardous SARS-CoV-2 from the Wuhan Lab.

176. Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duty and failed to perform an appropriate risk assessment, making them grossly negligent.

177. Defendants, and those working in furtherance of their business and within the scope of their authority, owed Plaintiffs and Decedents a duty to use enhanced bio-safety containment processes.

178. Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duty and failed to use enhanced bio-safety containment processes, making them grossly negligent.

179. Defendants, and those working in furtherance of their business and within the scope of their authority, owed Plaintiffs and Decedents a duty to protect them from the risks of exposure to *Gain of Function* coronavirus SARS-CoV-2.

180. The Defendants, and those working in furtherance of their business and within the scope of their authority, breached their duties to the Plaintiffs by wantonly and willfully disregarding warnings about safety breaches and lax biosecurity at the Wuhan Lab, making them grossly negligent.

181. As a result of the gross negligence of the Defendants, and those working in furtherance of their business and within the scope of their authority, in violation of the duties they owed to others, the Plaintiffs and Decedents were damaged and/or killed by exposure to the SARS-CoV-2 virus.

182. The limitations on liability set forth in CPLR § 1601 do not apply to this action by reason of one or more of the exceptions set forth in CPLR § 1602.

183. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such

other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

### **VIII. ASSAULT AND BATTERY**

184. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

185. Defendants have intentionally and continuously committed battery to Plaintiffs' and Decedents' person by releasing SARS-CoV-2 into the Plaintiffs' work and living environment and exposing Plaintiffs and Decedents to their *Gain of Function* experiment, and by allowing those substances to remain in the environment to date.

186. Defendants' battery is a direct and proximate cause of injuries, damages, and/or death sustained by the Plaintiffs and Decedents.

187. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount in excess of One Billion Dollars (\$1,000,000,000) plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent the defendants from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

### **IX. MEDICAL MONITORING AND FEAR OF CONTRACTING ILLNESS**

188. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

189. As a direct and proximate result of Defendants' conduct alleged herein, Plaintiffs have sustained personal injuries which are presently known, and which presently cause symptoms, pain and suffering and sequela.

190. As a direct and proximate result of Defendants' conduct alleged herein, Plaintiffs have incurred and continue to incur the cost of medical treatment and monitoring requiring routine temperature tests, masking, PCR testing and other intrusive and distressing diagnostics.

191. As a direct and proximate result of Defendants' conduct alleged herein, Plaintiffs will suffer future injuries, symptoms and pain and suffering from the latent and unknown effects of their exposure to Defendants' *Gain of Function* coronavirus SARS-CoV-2.

192. As a direct and proximate result thereof, Plaintiffs will need continual medical treatment, testing and monitoring in the future.

193. As a result of the foregoing, Plaintiffs are entitled to recover the costs of past and future medical monitoring, testing and treatment from Defendants, as a separate claim for relief, or, alternatively, as additional damages under each of the other claims for relief above.

194. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

**X. WRONGFUL DEATH**  
**(as to Plaintiffs McKinniss and Finn)**

195. Plaintiffs McKinniss and Finn repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

196. Decedents Finn and McKinniss are survived by family members entitled to recover damages from all Defendants for wrongful death. These family members are among the Plaintiffs who are entitled to damages deemed as a fair and just compensation for their injuries resulting from the deaths of the Decedents.

197. The injuries and damages suffered by the Finn and McKinniss Plaintiffs by virtue of the death of the Decedents, and the consequences resulting therefrom, were proximately caused by the intentional and reckless acts, omissions, and other tortious conduct of all Defendants as described herein.

198. As a direct and proximate result of the deaths of the Decedents, their heirs have been deprived of future aid, assistance, services, comfort, and financial support.

199. As a direct and proximate result of the Defendants' dangerous, reckless, and deceptive acts and omissions as alleged herein, the heirs of the Decedents will forever grieve their deaths.

200. As a further result of intentional and reckless acts, omissions, and other tortious conduct of the Defendants, the jama and McKinniss Plaintiffs have been caused to expend various sums to administer the estates of Decedents and have incurred other expenses for which they are entitled to recover.

201. The statute of limitations for Wrongful Death is tolled by virtue of Defendants' continuing acts and omissions to cover up the origins of the SARS-CoV-2 virus, and their role with respect thereto, as alleged herein.

202. WHEREFORE, Plaintiffs Finn and McKinniss demand judgment in their favor against all Defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems

appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

**XI. SURVIVAL ACTION  
(as to Plaintiffs McKinniss and Finn)**

203. Plaintiffs McKinniss and Finn repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

204. Plaintiffs McKinniss and Finn bring this action for damages suffered by the Decedents and caused by Defendants' conduct. As a result of the intentional and negligent acts of the Defendants as described above, the Decedents were placed in apprehension of harmful and offensive bodily contact (assault), suffered offensive and harmful bodily contact (battery), suffered extreme fear, anxiety, emotional and psychological distress (intentional/negligent infliction of emotional distress), and were mentally and physically harmed, trapped, and falsely imprisoned (false imprisonment) prior to their deaths.

205. As a result of the Defendants' reckless and dangerous conduct, the Decedents suffered damages including pain and suffering, trauma, emotional distress, loss of life and life's pleasures, loss of earnings and earning capacity, loss of accretion to their estates and other items of damages as fully set forth in the paragraphs above which are incorporated herein by reference.

206. WHEREFORE, Plaintiffs McKinniss and Finn demand judgment in their favor against all Defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

**XII. CONSPIRACY**

207. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

208. As set forth more fully above, all Defendants, known and unknown, unlawfully, willfully and knowingly combined, conspired, confederated and agreed, tacitly and/or expressly, to develop and release, and then suppress the origins of, SARS-CoV-2.

209. Defendants' conspiracy resulted in the Covid-19 pandemic that injured and/or killed Plaintiffs and/or Decedents and others similarly situated.

210. As a result of Defendants' conspiracy, Plaintiffs and Decedents have suffered damages as fully set forth in the paragraphs above which are incorporated herein by reference.

211. WHEREFORE, Plaintiffs demand judgment in their favor against all defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

### **XIII. PUNITIVE DAMAGES**

212. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the foregoing paragraphs of the Verified Complaint with the same force and effect as if hereinafter set forth at length.

213. The actions of all Defendants, acting in concert to carry out their unlawful objectives, were malicious, outrageous and in willful, wanton, and reckless disregard of the rights, safety, and health of all Plaintiffs and/or Decedents. Defendants, acting individually and jointly, intended to carry



out actions that would endanger the lives of the Plaintiffs and/or Decedents and all those similarly situated.

214. Defendants' actions and omissions as alleged herein demonstrate a high degree of moral culpability and turpitude. Defendants' conduct represents a high degree of immorality and shows such wanton dishonesty as to imply a criminal indifference to civil obligations.

215. Defendants' actions and omissions put literally the entire globe at risk of contracting a novel and deadly pathogen. Defendants' wanton and willful conduct must be punished to deter similar conduct which apparently is still continuing as alleged herein.

216. As a result of their intentional, malicious, outrageous, willful and wanton conduct, all Defendants are jointly and severally liable to all Plaintiffs for punitive damages in an amount to be determined at trial.

217. WHEREFORE, Plaintiffs demand judgment in their favor against all Defendants, jointly, severally, and/or individually, in an amount to be determined at trial, plus interest, costs, and such other monetary and equitable relief as this Honorable Court deems appropriate to prevent Defendants and others from ever again committing the dangerous acts related to the development and release of SARS-CoV-2 or similar acts.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs demand judgment against the Defendants on each of the above-referenced claims and causes of action and as follows:

1. Awarding compensatory damages in excess of the jurisdictional amount, including but not limited to pain, suffering, emotional distress, loss of enjoyment of life, and other non-economic damages in an amount to be determined at trial of this action;
2. Awarding compensatory damages to Plaintiffs for past and future damages, including, but not limited to, Plaintiffs' pain and suffering and for severe and permanent personal injuries sustained by Plaintiffs including health care costs and economic loss;
3. Awarding economic damages in the form of medical expenses, out of pocket expenses, lost earnings and other economic damages in an amount to be determined at trial of this action;
4. Awarding punitive damages to Plaintiffs in order to punish Defendants for their wanton, reckless, and malicious acts and omissions, and thereby discourage Defendants and others from acting in a similar way in the future;
5. Pre-judgment interest;
6. Post-judgment interest;
7. Awarding Plaintiffs reasonable attorneys' fees;
8. Awarding Plaintiff the costs of these proceedings; and
9. Such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand trial by jury as to all issues.

DATED: October 5, 2022

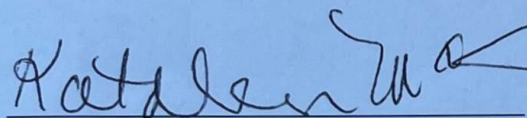
Respectfully submitted,

s/Patricia Finn, Esq.  
PATRICIA FINN ATTORNEY, P.C.  
58 East Route 59, Suite 4  
Nanuet, New York  
845 398 0521

/s/ Thomas Renz  
**THOMAS RENZ**  
(Ohio Bar ID: 98645)  
1907 W. State St. #162  
Fremont, OH 43420  
(419) 351-4248  
renzlawllc@gmail.com  
(*Pro Hac Vice application to be filed*)

## VERIFICATION OF COMPLAINT

I, Kathleen McKinniss, plaintiff, being duly sworn, deposes and says: I have read the annexed Complaint, and know the contents thereof; that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he/she believes it to be true.

A handwritten signature in black ink, appearing to read "Kathleen McKinniss", is written over a horizontal line.

Kathleen McKinniss, Plaintiff

Sworn to before me this \_\_\_\_\_ day of October, 2022.



**OHIO JURAT**  
§147-551

State of Ohio

County of Franklin } ss.

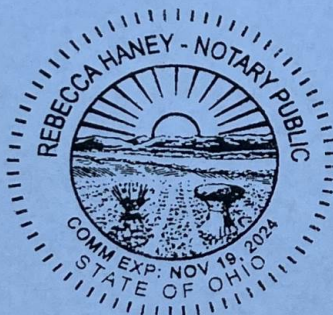
Sworn to or affirmed and subscribed before me by

Kathleen McKinniss

Name of Person Making Jurat

this date of October 5, 2022

Date



Affix Seal Here

[Signature]  
Signature of Notary Public Administering JuratNotary Public  
Title or RankNov. 19, 2024  
Commission Expiration Date**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**Title or Type of Document: Verification of ComplaintDocument Date: Oct. 5, 2022 Number of Pages: 1

Signer(s) Other Than Named Above: \_\_\_\_\_

## VERIFICATION OF COMPLAINT

I, Carin Rosado, plaintiff, being duly sworn, deposes and says: I have read the annexed Complaint, and know the contents thereof, that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he/she believes it to be true.

  
Carin Rosado, Plaintiff

Sworn to before me this 5<sup>th</sup> day of October, 2022.



MICHAEL LAU  
Notary Public, State of New York  
Reg. No. 01LA8306497  
Qualified in Queens County  
Commission Expires 08/23/2026

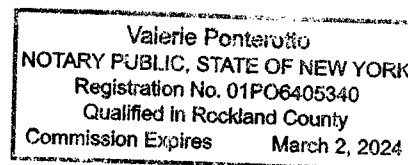
## VERIFICATION OF COMPLAINT

I, Geraldine Finn, plaintiff, being duly sworn, deposes and says: I have read the annexed Complaint, and know the contents thereof; that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he/she believes it to be true.

Geraldine Finn  
Geraldine Finn, Plaintiff

Sworn to before me this 5<sup>th</sup> day of October, 2022.

Valerie Pontorotto  
NOTARY





New York State Bar Association

New York Statutory Short Form Power of Attorney, Eff. 6/13/21

**POWER OF ATTORNEY  
NEW YORK STATUTORY SHORT FORM**

**(a) CAUTION TO THE PRINCIPAL: Your Power of Attorney is an important document. As the “principal,” you give the person whom you choose (your “agent”) authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.**

**When your agent exercises this authority, he or she must act according to any instructions you have provided or, where there are no specific instructions, in your best interest. “Important Information for the Agent” at the end of this document describes your agent’s responsibilities.**

**Your agent can act on your behalf only after signing the Power of Attorney before a notary public.**

**You can request information from your agent at any time. If you are revoking a prior Power of Attorney, you should provide written notice of the revocation to your prior agent(s) and to any third parties who may have acted upon it, including the financial institutions where your accounts are located.**

**You can revoke or terminate your Power of Attorney at any time for any reason as long as you are of sound mind. If you are no longer of sound mind, a court can remove an agent for acting improperly.**

**Your agent cannot make health care decisions for you. You may execute a “Health Care Proxy” to do this.**

**The law governing Powers of Attorney is contained in the New York General Obligations Law, Article 5, Title 15. This law is available at a law library, or online through the New York State Senate or Assembly websites, [www.nysenate.gov](http://www.nysenate.gov) or [www.nyassembly.gov](http://www.nyassembly.gov).**

**If there is anything about this document that you do not understand, you should ask a lawyer of your own choosing to explain it to you.**





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New York Statutory Short Form Power of Attorney, Eff. 6/13/21

**(b) DESIGNATION OF AGENT(S):**

I, GERALDINE K. FINN

*(name of principal)*

7 Brook Hill Drive, West Nyack, NY 10994

*(address of principal)*

hereby appoint:

JEANNINE M. BERGIN

*(name of agent)*

7 Brook Hill Drive, West Nyack, NY 10994

*(address of agent)*

\_\_\_\_\_  
*(name of second agent)*

\_\_\_\_\_  
*(address of second agent)*

as my agent.

If you designate more than one agent above and you do not initial the statement below, they must act together.

☐ My agents may act SEPARATELY.

**(c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)**

If any agent designated above is unable or unwilling to serve, I appoint as my successor agent(s):

BRIAN J. FINN

*(name of successor agent)*

52 Rick Road, Milford, New Jersey 08848

*(address of successor agent)*

\_\_\_\_\_  
*(name of second successor agent),*

\_\_\_\_\_  
*(address of second successor agent)*

If you do not initial the statement below, successor agents designated above must act together.

☐ My successor agents may act SEPARATELY.

You may provide for specific succession rules in this section. Insert specific succession provisions here:

**(d) This POWER OF ATTORNEY shall not be affected by my subsequent incapacity unless I have stated otherwise below, under "Modifications".**

**(e) This POWER OF ATTORNEY DOES NOT REVOKE any Powers of Attorney previously executed by me unless I have stated otherwise below, under "Modifications."**



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**(f) GRANT OF AUTHORITY:**

To grant your agent some or all of the authority below, either

- (1) Initial the bracket at each authority you grant, or
- (2) Write or type the letters for each authority you grant on the blank line at (P), and initial the bracket at (P). If you initial (P), you do not need to initial the other lines.

I grant authority to my agent(s) with respect to the following subjects as defined in sections 5-1502A through 5-1502N of the New York General Obligations Law:

- ☐ (A) real estate transactions;
- ☐ (B) chattel and goods transactions;
- ☐ (C) bond, share, and commodity transactions;
- ☐ (D) banking transactions;
- ☐ (E) business operating transactions;
- ☐ (F) insurance transactions;
- ☐ (G) estate transactions;
- ☐ (H) claims and litigation;
- ☐ (I) personal and family maintenance: If you grant your agent this authority, it will allow the agent to make gifts that you customarily have made to individuals, including the agent, and charitable organizations. The total amount of all such gifts in any one calendar year cannot exceed five thousand dollars;
- ☐ (J) benefits from governmental programs or civil or military service;
- ☐ (K) financial matters related to health care; records, reports, and statements;
- ☐ (L) retirement benefit transactions;
- ☐ (M) tax matters;
- ☐ (N) all other matters;
- ☐ (O) full and unqualified authority to my agent(s) to delegate any or all of the foregoing powers to any person or persons whom my agent(s) select;
- AK7 ☒ (P) EACH of the matters identified by the following letters \_\_\_\_\_.

You need not initial the other lines if you initial line (P).



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**(g) CERTAIN GIFT TRANSACTIONS: (OPTIONAL)**

In order to authorize your agent to make gifts in excess of an annual total of \$5,000 for all gifts described in (I) of the grant of authority section of this document (under personal and family maintenance), and/or to make changes to interest in your property, you must expressly grant that authorization in the Modifications section below. If you wish to authorize your agent to make gifts to himself or herself, you must expressly grant such authorization in the Modifications section below. Granting such authority to your agent gives your agent the authority to take actions which could significantly reduce your property and/or change how your property is distributed at your death. Your choice to grant such authority should be discussed with a lawyer.

SKZ I grant my agent authority to make gifts in accordance with the terms and conditions of the Modifications that supplement this Statutory Power of Attorney.

**(h) MODIFICATIONS: (OPTIONAL)**

In this section, you may make additional provisions, including, but not limited to, language to limit or supplement authority granted to your agent, language to grant your agent the specific authority to make gifts to himself or herself, and /or language to grant your agent the specific authority to make other gift transactions and/or changes to interests in your property. Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. In this section, you may make additional provisions if you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and you may define "reasonable compensation."

SKZ By initialing here, I hereby revoke any prior powers of attorney.

I grant the following additional authority to my agent:

**1. Guardian Provision**

If it becomes necessary to appoint a guardian of my person or property, I hereby direct that the person serving, or named to serve, as my Agent under this Power of Attorney be named as my Guardian.

**2. Gifting Provisions**

I grant the following authority to my agent to make gifts pursuant to my instructions, or otherwise for purposes which the agent reasonably deems to be in my best interest:

- a. To transfer, gift or convey any and all property that I may own as I may do under all circumstances for purposes of gift, estate or tax planning, Medicaid planning or for whatever purposes my agent(s) deems appropriate, and to complete charitable pledges and make charitable gifts.
- b. To make gifts in any of the following ways:
  - i. **Gifting through banking transactions.** Opening, modifying or terminating a deposit account in the name of the principal and other joint tenants; opening, modifying or terminating any other joint account in the name of the principal and other joint tenants; with respect to joint accounts existing at the creation of the agency, the authority granted hereby shall include the



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power to change the title of the account by the addition of a new joint tenant or the deletion of an existing joint tenant; opening, modifying or terminating a bank account in trust form as described in § 7-5.1 of the Estates, Powers and Trusts Law, and designate or change the beneficiary or beneficiaries of such account; with respect to Totten trust accounts existing at the creation of the agency, the authority granted hereby shall include the power to add, delete, or otherwise change the designation of beneficiaries in effect for any such accounts; opening, modifying or terminating a transfer on death account as described in part four of Article Thirteen of the Estates, Powers and Trusts Law, and designate or change the beneficiary or beneficiaries of such account;

- ii. **Gifting by changing beneficiary or modifying life insurance.** Changing the beneficiary or beneficiaries of any contract of insurance on the life of the principal or annuity contract for the benefit of the principal; with respect to life insurance contracts existing at the creation of the agency, the authority granted hereby shall include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract; procuring new, different or additional contracts of insurance on the life of the principal or annuity contracts for the benefit of the principal and designate the beneficiary or beneficiaries of any such contract; to apply for and to receive any available loan on the security of the contract of insurance, whether for the payment of a premium or for the procuring of cash, to surrender and thereupon to receive the cash surrender value, to exercise an election as to beneficiary or mode of payment, to change the manner of paying premiums, and to change or to convert the type of insurance contract, with respect to any contract of life, accident, health, disability or liability insurance as to which the principal has, or claims to have, any one or more of the powers described in this section; the authority granted hereby with respect to the contract of insurance shall include the power to add, delete or otherwise change the designation of beneficiaries in effect for any such contract;
- iii. **Gifting by changing beneficiary or modifying retirement accounts.** Designate or change the beneficiary or beneficiaries of any type of retirement benefit or plan; the authority granted hereby with respect to retirement benefits or plans shall include the authority to add, delete, or otherwise change the designation of beneficiaries in effect for any such retirement benefit or plan; creating, amending, revoking or terminating an inter vivos trust; and; opening, modifying or terminating other property interests or rights of survivorship, and designate or change the beneficiary or beneficiaries therein.
- iv. **Gifting by establishing and funding a revocable or irrevocable lifetime trust or joining and funding a pooled trust.** Create trusts, whether revocable or irrevocable, on my behalf; fund such trusts on my behalf or make transfers and additions to any trusts already in existence; withdraw income or principal on my behalf from any trust; exercise whatever trust powers or elections which I may exercise. This grant of authority shall include the ability of my agent(s) to create trusts or accounts naming himself, herself, or themselves, as the case may be, as the beneficiary(ies) of such trusts.
- v. **Conveyance of specific real property or a cooperative apartment.** Convey all of my right, title and interest in the real property known as 7 Brook Hill Road, West Nyack, NY 10994, paying off any liens of the said premises, paying all expenses related to the sale of the said premises, including but not limited to filing fees, maintenance adjustments and legal fees, receiving all moneys resulting from the sale of the premises executing all documents necessary to accomplish the foregoing and doing all things necessary to effect the conveyance.



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**vi. Making loans and executing promissory notes.** Make loans and executing promissory notes and/or forgiving debts.

- c. A gift to an individual authorized by this subdivision may be made:** Outright, by exercise or release of a presently exercisable general or special power of appointment held by the principal; to a trust established or created for such individual; to a Uniform Transfers to Minors Act account for such individual (regardless of who is the custodian); or to a tuition savings account or prepaid tuition plan as defined under section 529 of the Internal Revenue Code for the benefit of such individual (without regard to who is the account owner or responsible individual for such account).
- d. Grant specific authority for agent to make the following gifts to herself.** I grant specific authority for the following agents to make the following gifts to herself and my family as follows:

I grant to my child, JEANNINE M. BERGIN, the authority to make major gifts to herself provided that when a child of mine is acting as agent hereunder, the agent-child is prohibited from making any gift to herself that exceeds the least amount that is gifted to a sibling of the agent-child or to the descendants, collectively, of any deceased sibling.

Gifts to the agent under this provision include all the powers, methods and manners as provided for gifting above.

**3. Compensation of Agent (optional)**

If my Agent is a professional (such as an attorney; accountant; geriatric care manager; professional guardian, conservator, or other fiduciary; or other professional, including entities that provide similar services), my Agent is entitled to compensation for services rendered pursuant to this Power of Attorney at such professional's then stated rates. If my Agent is not a professional, my Agent is not entitled to compensation.

Whether or not my Agent is a professional, my Agent is entitled to reimbursement for costs reasonably incurred while acting as my Agent, including, but not limited to: phone bills; postage; and travel expenses, if necessary, to supervise my care.

- 4. Safe Deposit Boxes.** My Agent may access safe deposit boxes and the right to remove the contents thereof and to make additions, substitutions, and replacements thereto.
- 5. Retire.** My Agent may retire or resign on my behalf or otherwise terminate my employment.
- 6. Retirement Benefit Transactions.** My Agent may deal with qualified retirement plans, including Individual Retirement Accounts, rollovers, voluntary contributions, options, distributions, disclaimers and waivers.
- 7. Business Transactions.** My Agent may pay the salaries of employees, including the attorney-in-fact, and operate any closely held business.
- 8. Borrow funds.** My Agent may borrow funds to avoid forced liquidation of assets.
- 9. Litigation.** My Agent may settle, pursue or appeal litigation on my behalf.
- 10. Brokerage Transactions.** My Agent may sell any and all common stocks, bonds and other investments and otherwise open and manage an account with a brokerage house for such purposes.
- 11. Government Entities.** My Agent may represent me with the Social Security Administration, Veterans Administration, Social Services, Medicare, Medicaid and all other government entities administering benefits or entitlements in order to settle claims, plan for benefit eligibility, submit applications and



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file appeals.

12. **Professional Services.** My Agent may retain, discharge and pay for the services of attorneys, accountants, financial planners, geriatric care managers, social workers, home health care aides, and other health care professionals.
13. **Control Over Digital Assets.** My agent(s) shall have (a) the power to access, use, and control my digital devices, including but not limited to, desktops, laptops, tablets, storage devices, mobile telephones, smartphones, and any similar digital device that currently exists or may exist as technology develops for the purpose of accessing, modifying, deleting, controlling, or transferring my digital assets, including any content contained in an electronic communication therein, (b) the power to access, modify, delete, control, and transfer my digital assets, including the content contained in any electronic communication therein, wherever located and including but not limited to, my emails received, email accounts, digital music, digital photographs, digital videos, software licenses, social network accounts, file sharing accounts, financial accounts, banking accounts, domain registrations, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts, and similar digital items which currently exist or may exist as technology develops, and (c) the power to obtain, access, modify, delete, and control my passwords and other electronic credentials associated with my digital devices and digital assets described above. This authority is intended to constitute "lawful consent" to a service provider to divulge the contents of any communication under The Stored Communications Act (currently codified as 18 U.S.C. §§ 2701 et seq.), to the extent such lawful consent is required, and as agent acting hereunder shall be an authorized user for purposes of applicable computer-fraud and unauthorized-computer-access laws.
14. **Intent to Return Home.** It is my intention to return home if I should be in a hospital, rehabilitation center, or nursing home, and my Agent shall take all steps, including, but not limited to, executing any document, affidavit or Declaration of Intent to Return Home on my behalf, to effectuate the same.
15. **U.S. Mail.** My Agent may open, read, respond to, and redirect my mail, and represent me before the U.S. Postal Service in all matters relating to mail service.
16. **Insurance Transactions.** My Agent may engage in insurance transactions, including applying for, maintaining, canceling, paying premiums on, increasing, or decreasing coverage, collecting, borrowing from, transferring ownership, surrendering and/or purchasing insurance policies.
17. **Estate Transactions.** My Agent may engage in estate transactions, including Receipt, Release and Refunding Agreements and Waivers and Consents.
18. **Disclaimers and Statutory Elections.** My Agent may make statutory elections and renounce or disclaim any interest in property by testate or intestate succession or by inter vivos transfer consistent with New York law.
19. **Powers of Appointment.** My Agent may exercise in whole or in part, or decline to exercise, or disclaim my rights under any special or general power of appointment or any rights retained by me in any trust or otherwise, whether or not any such trust or other instrument was created by me or others.
20. **Caregiver Agreements.** My Agent may enter into, execute, modify, alter or amend any contract or agreement (for example, a Caregiver Agreement or Personal Services Contract) pertaining to my medical, personal, or general care that I may require at my residence, assisted living facility, nursing facility, or in another's residence on my behalf. I expressly authorize my Agent to also serve as a caregiver under any such agreement and to be paid in accordance with the terms and conditions of such agreement, provided, however, that such services are compensated at fair market value.



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(i) **DESIGNATION OF MONITOR(S): (OPTIONAL)**

If you wish to appoint monitor(s), initial and fill in the section below:

( ) I wish to designate \_\_\_\_\_, whose address(es) is (are) \_\_\_\_\_, as monitor(s). Upon the request of the monitor(s), my agent(s) must provide the monitor(s) with a copy of the power of attorney and a record of all transactions done or made on my behalf. Third parties holding records of such transactions shall provide the records to the monitor(s) upon request.

(j) **COMPENSATION OF AGENT(S):**

~~Your agent is entitled to be reimbursed from your assets for reasonable expenses incurred on your behalf. If you ALSO wish your agent(s) to be compensated from your assets for services rendered on your behalf, and/or you wish to define "reasonable compensation", you may do so above, under "Modifications".~~

(k) **ACCEPTANCE BY THIRD PARTIES:**

I agree to indemnify the third party for any claims that may arise against the third party because of reliance on this Power of Attorney. I understand that any termination of this Power of Attorney, whether the result of my revocation of the Power of Attorney or otherwise, is not effective as to a third party until the third party has actual notice or knowledge of the termination.

(l) **TERMINATION:**

This Power of Attorney continues until I revoke it or it is terminated by my death or other event described in section 5-1511 of the General Obligations Law.

Section 5-1511 of the General Obligations Law describes the manner in which you may revoke your Power of Attorney, and the events which terminate the Power of Attorney.

(m) **SIGNATURE AND ACKNOWLEDGMENT:**

In Witness Whereof I have hereunto signed my name on June 29, 2021

PRINCIPAL signs here: ==>

  
GERALDINE K. FINN

STATE OF NEW YORK )

) ss:

COUNTY OF ROCKLAND )

On the 29th day of June, 2021, before me, the undersigned, personally appeared GERALDINE K. FINN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

VINCENT SAVINO  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 025A6065000  
QUALIFIED IN WESTCHESTER COUNTY  
MY COMMISSION EXPIRES OCTOBER 9, 2021

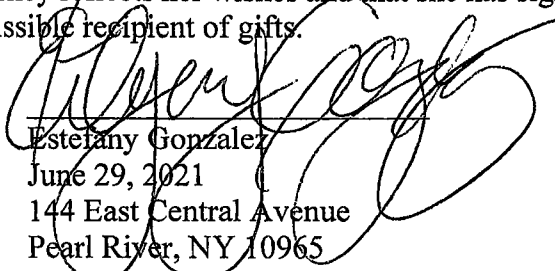


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**(n) SIGNATURE OF WITNESSES:**

By signing as a witness, I acknowledge that the principal signed the Power of Attorney in my presence and in the presence of the other witness, or that the principal acknowledged to me that the principal's signature was affixed by him or her or at her direction. I also acknowledge that the principal has stated that this Power of Attorney reflects her wishes and that she has signed it voluntarily. I am not named herein as an agent or as a permissible recipient of gifts.


  
Estefany Gonzalez

June 29, 2021

144 East Central Avenue  
Pearl River, NY 10965

  
Heather Russo

Heather Russo

June 29, 2021

144 East Central Avenue  
Pearl River, New York 10965**(o) IMPORTANT INFORMATION FOR THE AGENT**

When you accept the authority granted under this Power of Attorney, a special legal relationship is created between you and the principal. This relationship imposes on you legal responsibilities that continue until you resign or the Power of Attorney is terminated or revoked. You must:

- (1) act according to any instructions from the principal, or, where there are no instructions, in the principal's best interest;
- (2) avoid conflicts that would impair your ability to act in the principal's best interest;
- (3) keep the principal's property separate and distinct from any assets you own or control, unless otherwise permitted by law;
- (4) keep a record of all transactions conducted for the principal or keep all receipts of payments and transactions conducted for the principal; and
- (5) disclose your identity as an agent whenever you act for the principal by writing or printing the principal's name and signing your own name as "agent" in either of the following manners: (Principal's Name) by (Your Signature) as Agent, or (your signature) as Agent for (Principal's Name).

You may not use the principal's assets to benefit yourself or anyone else or make gifts to yourself or anyone else unless the principal has specifically granted you that authority in the modifications section of this document or a Non-Statutory Power of Attorney. If you have that authority, you must act according to any instructions of the principal or, where there are no such instructions, in the principal's best interest.

You may resign by giving written notice to the principal and to any co-agent, successor agent, monitor if one has been named in this document, or the principal's guardian if one has been appointed. If there is anything about this document or your responsibilities that you do not understand, you should seek legal advice.

**Liability of agent:** The meaning of the authority given to you is defined in New York's General Obligations Law, Article 5, Title 15. If it is found that you have violated the law or acted outside the authority granted to you in the Power of Attorney, you may be liable under the law for your violation.





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(p) **AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:**

It is not required that the principal and the agent sign at the same time, nor that multiple agents sign at the same time.

I, JEANNINE M. BERGIN, have read the foregoing Power of Attorney. I am/we are the person(s) identified therein as agent for the principal named therein.

I acknowledge my/our legal responsibilities.

In Witness Whereof I have hereunto signed my name on June 29, 2021

Agent signs here: ==>

*Jeannine M. Bergin*  
JEANNINE M. BERGIN

STATE OF NEW YORK )

ss:

COUNTY OF ROCKLAND )

On the 29th day of June, 2021, before me, the undersigned, personally appeared JEANNINE M. BERGIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

*Vincent Savino*  
\_\_\_\_\_  
Notary Public

VINCENT SAVINO  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 02SA6065000  
QUALIFIED IN WESTCHESTER COUNTY  
MY COMMISSION EXPIRES OCTOBER 9, 2021